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May 14, 2002

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VIA HAND DELIVERY

David Waddell, Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37238

Re: *Generic Docket to Establish UNE Prices for Line Sharing per FCC 99-355 and Riser Cable and Terminating Wire as Ordered in TRA Docket No. 98-00123*
Docket No. 00-00544

Dear Mr. Waddell:

Enclosed are the original and thirteen copies of BellSouth's Reply Memorandum in Support of Motion to Strike. Copies of the enclosed are being provided to counsel of record.

Very truly yours,

Guy M. Hicks

GMH:ch

BEFORE THE TENNESSEE REGULATORY AUTHORITY
Nashville, Tennessee

In Re: *Generic Docket to Establish UNE Prices for Line Sharing per FCC 99-355 and Riser Cable and Terminating Wire as Ordered in TRA Docket No. 98-00123*

Docket No. 00-00544

**BELLSOUTH'S REPLY MEMORANDUM
IN SUPPORT OF MOTION TO STRIKE**

BellSouth Telecommunications, Inc. ("BellSouth") submits this reply memorandum in support of its motion to strike certain portions of the brief filed by DIECA Communications, Inc. d/b/a Covad Communications Company ("Covad") in opposition to BellSouth's petition for a stay. As set forth in more detail in BellSouth's original motion, to the extent that Covad has asked the Authority to reconsider or modify its April 3, 2002 First Initial Order ("April 3 Order"), Covad's request is untimely and should not be considered.

ARGUMENT

Covad's "opposition" to BellSouth's motion to strike does not offer any response to the very simple point raised by the motion: There is no question that Covad's request that the Authority require BellSouth to provide CLECs with access to BellSouth's remote DSLAMs on a UNE basis is anything other than a second request for reconsideration. Covad's second request for reconsideration of the April 3 Order was not timely and cannot be considered by the Authority. Covad simply is not

entitled to seek modification, clarification, or reconsideration of the April 3 Order after the time period prescribed by T.C.A. § 4-5-317(a) has run.

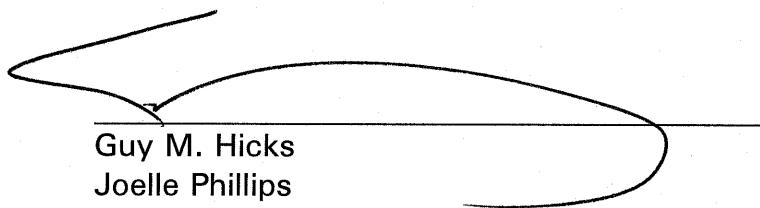
In its "opposition," Covad claims that its new request should be treated as an alternative method for complying with the Authority's "implicit directions." This procedural maneuver is equally improper. Apparently recognizing the infeasibility of the Authority's original order, Covad is now trying to persuade the Authority to change direction and order new relief altogether. Indeed, Covad would have the Authority grant this new relief based on its post-hearing submission with no meaningful opportunity for BellSouth and the other parties to address this new and significant issue. Due process requires far more, and the Authority should summarily reject Covad's back door attempt to obtain relief in this manner. Moreover, Covad's suggestion that "BellSouth does not want the Authority to consider – or even hear – of this technically feasible option" (Opp. Mem. at p. 3) is belied by the fact that the Authority previously decided this issue in the Interim Order of Arbitration Award issued in Docket No. 99-00948 (June 25, 2001), where the Authority found that BellSouth was not required to provide packet switching functionality on an unbundled basis as Covad now seeks.

Covad appears to concede that the new relief it has requested must be supported by some evidentiary basis. At page 5 of its opposition, Covad invites the Authority to "reopen the evidentiary record to hear additional testimony on this very significant issue." BellSouth concurs that the untimely issue raised by Covad must be the subject of a full evidentiary hearing before the Authority may consider it. But this

proceeding, which was opened to address the rates for certain unbundled network elements, is not the proper forum for consideration of Covad's new issue.

Respectfully submitted,

BELLSOUTH TELECOMMUNICATIONS, INC.



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CERTIFICATE OF SERVICE

I hereby certify that on May 14, 2002, a copy of the foregoing document was served on the parties of record, via the method indicated:

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